



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/734,088

12/11/2003

Gregory L. Sundberg

387484

7977

42074

7590

02/17/2011

FAEGRE & BENSON LLP
PATENT DOCKETING - INTELLECTUAL PROPERTY (32469)
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901

EXAMINER

LAVERT, NICOLE F

ART UNIT

PAPER NUMBER

3762

NOTIFICATION DATE

DELIVERY MODE

02/17/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

e-OfficeActionBSC@faegre.com
djohnson2@faegre.com
rhale@faegre.com

Office Action Summary	Application No. 10/734,088	Applicant(s) SUNDBERG, GREGORY L.	
	Examiner NICOLE F. LAVERT	Art Unit 3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-7,21,23-26,43,51-53,59 and 60 is/are pending in the application.
- 4a) Of the above claim(s) 44-49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-3,5-7,21,23-26,43,51-53,59 and 60 is/are rejected.
- 7) ☐ Claim(s) 1-3,5-7,21,23-26,43,51-53,59 and 60 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/31/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 26 January 2011 as been entered.

Election/Restrictions

2. Claims 44-49 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group(s), there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 26 July 2010.

Claim Objections

3. Claims 1-3, 5-7, 21, 23-26, 43, 51-53 & 59-60 are objected to because of the following informalities:

In regards to claims 1 & 51, the limitation "...void spaces..." is inferentially included and it is unclear if said "void spaces" are being positively or functionally recited.

Claim 2 recites the limitation "the one or more compression features". There is insufficient antecedent basis for this limitation in the claim.

Claim 3 recites the limitation "the inner perimeter". There is insufficient antecedent basis for this limitation in the claim.

Claim 25 recites the limitation "the group". There is insufficient antecedent basis for this limitation in the claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. **Claims 1-3, 5-7, 21, 23-25, 43, 51-53 & 59-60** are rejected under 35 U.S.C. 102(e) as being anticipated by Tuominen (US 2004/0167595).

Tuominen discloses an implantable lead comprising [e.g., 0002]; a tubular lead body (e.g., element 210) including an inner body surface (e.g., element 212); an insulated coiled conductor (e.g., element 54) including an interior lumen, the conductor extending through the tubular lead body such that the inner body surface and the insulated coiled conductor define a generally annular hollow between the inner body surface and the insulated coiled conductor {e.g., see the space created between the inner body surface 212 and the conductor 54, in which further defines the disclosed lumen 34 [0021] & (Fig 2)}; at least one electrode (e.g., elements 209-216) disposed along the tubular lead body [e.g., 0019]; at least one conductor, i.e. first and

Art Unit: 3762

second insulated cable conductors, electrically coupled with the at least electrode and disposed in the generally annular hollow (e.g., via the disclosed conductors 52 and 53 extending through the lumens 32 & 33); and at least one, generally C-shaped filler (e.g., via the disclosed ribs 42-44 including peaks 50) disposed within the generally annular hollow, said filler defining void spaces that enable the filler to compress or otherwise move with the lead body and including compression waves (e.g., via said peaks 50 of the ribs) disposed on the inner perimeter of the one or more fillers {e.g., [0024] & (Fig 2)}, wherein said lead further comprises an active fixation assembly (e.g., via the disclosed tines 218) disposed at a distal end of the tubular lead body [e.g., 0019]; wherein the conductors includes insulation that includes at least one of the group including PTFE, EFTE and polyurethane [e.g., 0021].

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claim 26** is rejected under 35 U.S.C. 103(a) as being unpatentable over Tuominen (US 2004/0167595) in view of Dahl et al. (US 5,366,496) and one of ordinary skill in the art.

Tuominen discloses the claimed invention having an apparatus and an implantable medical device including at least one conductor except wherein said implantable lead further comprises at least one coil conductor with an outer insulation surface contacting an outer insulation surface of a cabled conductor in which the cable conductor is disposed around the

Art Unit: 3762

coiled conductor. Dahl et al. teaches that it is known to utilize a body implantable tissue stimulation device including an elongate, flexible electrically conductive lead further comprising a shunt cable conductor with a dielectric sheath surrounding a conductive core in which also includes a dielectric coating [e.g., (col 2, ln 43-49), (col 8, ln 18-27), (col 9, 36-51-64) & (Fig 6, 194, 200, 198 & 196)]. Note that it is well known in the art that the disclosed conductive core may be in the form of a coiled conductor as is instantly claimed (e.g., Fig 6, 198). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus and implantable medical lead as taught by Tuominen with the use of the shunt cable conductor surrounding a conductive core as taught by Dahl et al. since such a modification would provide the an apparatus and an implantable medical device including at least one conductor with at least one coil conductor with an outer insulation surface contacting an outer insulation surface of a cabled conductor in which the cable conductor is disposed around the coiled conductor for providing the predictable results pertaining to providing a highly conductive and fatigue-resisting conductor assembly in which provides parallel electrically conductive paths for increased electrode conductivity (Dahl, col 3, ln 29-32 & 51-64).

Response to Arguments

7. Applicant's arguments with respect to claims 1-3, 5-7, 21, 23-26, 43, 51-53 & 59-60 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NICOLE F. LAVERT whose telephone number is (571)270-5040. The examiner can normally be reached on M-F 7:30-5:00p.m. (alt. fridays).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Niketa Patel can be reached on 571-272-4156. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nicole F. LaVert/
Examiner, Art Unit 3762